

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI
WESTERN DIVISION**

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	No. 10-00121-01-CR-W-DGK
)	
JOSEPH M. MABERY,)	
)	
Defendant.)	

ORDER

Pending before the Court are Defendant's Motion to Suppress Evidence (Doc. 18), the Government's response (Doc. 20), United States Magistrate Judge John T. Maughmer's Report and Recommendation (Doc. 24), and Defendant's Objections to Report and Recommendation (Doc. 27). The Court has also reviewed the transcript from the hearing (Doc. 22).

After carefully reviewing the Magistrate's report and conducting an independent review of the record and applicable law, the Court hereby ORDERS that Magistrate Judge Maughmer's Report and Recommendation be ADOPTED IN PART.¹ Defendant's Motion to Suppress Evidence (Doc. 18) is hereby DENIED.

IT IS SO ORDERED

Date: October 26, 2010

/s/ Greg Kays
GREG KAYS, JUDGE
UNITED STATES DISTRICT COURT

¹ Defendant objects to Paragraph 7 of the proposed findings of fact, which finds that there was a female passenger in the front seat. Upon review of the transcript, the Court notes that the record is not clear. Officer Cisneros stated that there was "one in the passenger seat." Tr. at 5. The most obvious implication of that statement is the front passenger seat, but he does not seem to say explicitly. Detective True responded in the affirmative to a question about a passenger in the backseat and later stated explicitly that the female passenger was in the back seat and the Defendant was the only person in the front. Tr. at 42, 48-49. Accordingly, the Court cannot adopt this portion of paragraph 7. However, this issue is certainly not dispositive of the overall legal question and the Court finds that that it has no bearing on the finding that Defendant's motion should be denied.